THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

W.P.No.3069 of 2006

DATED:21.02.2006

BETWEEN:

Marpu Shyamala Rao

..Petitioner

And

The Commandant, 28 BN BSF, Bikaner, Rajasthan.

..Respondent

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ORDER:

This writ petition is filed by a constable working in 28 BN Border Security Force, Bikaner, Rajasthan, against the order, dated 19.11.2005, dismissing him from service pursuant to initiation of disciplinary proceedings in exercise of powers under Sections 19 (d) & 40 of the Border Security Force Act, 1968 (for short "the Act").

It is submitted by the learned counsel for the respondent that as per Sections 117 and 118 of the Act, the petitioner has an effective alternative remedy.

Sections 117 and 118 of the Act read as follows:-

> "117. **Remedy against order, finding or sentence of Security Force Court.-**
>
> (1) Any person subject to this Act who considers himself aggrieved by any order passed by any Security Force Court may present a petition to the officer or authority empowered to confirm any finding or sentence of such Security Force Court, and the confirming authority may take such steps as may be considered necessary to satisfy itself as to the correctness, legality or propriety of the order passed or as to regularity of any proceeding to which the order relates.
>
> (2) Any person subject to this Act who considers himself aggrieved by a finding or sentence of any Security Force Court which has been confirmed, may present a petition to the Central Government, the Director-General, or any prescribed officer superior in command to the one who confirmed such finding or sentence and the Central Government, the Director-General, or the prescribed officer, as the case may be, may pass such order thereon as it or he thinks fit.
>
> 118. **Annulment of proceedings.-**
>
> The Central Government, the Director-General, or any prescribed officer may annul the proceedings of any Security Force Court on the ground that they are illegal or unjust."

In view of the above said provisions, there is an effective alternative remedy for the petitioner either to present his case before the confirming authority or he may further

appeal to Director-General or the Central Government to annul the proceedings of the Security Force Court. Hence, there is no reason to entertain this writ petition bypassing the statutory remedies.

In that view of the matter, the writ petition is disposed of permitting the petitioner to avail the remedies as provided under Sections 117 and 118 of the Act. If such a representation is filed, it is open for the competent authority under Sections 117 and 118 of the Act to consider the case of the petitioner for passing appropriate orders. No order as to costs.

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21.02.2006

GJ